

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

WEST BEND MUTUAL INSURANCE COMPANY
a domestic corporation,
1900 S. 18th Avenue
West Bend, WI 53095

Plaintiff,

COMPLAINT
Case No.

vs.

UNITED STATES
c/o U.S. Attorney's Office
517 E. Wisconsin Avenue
Milwaukee, WI 53202

c/o Office of the Attorney General
U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530-0001

Defendant.

NOW COMES the plaintiff by its attorneys, LAW OFFICE OF ATTORNEY KEVIN ROACH and for its Claims for Relief against the defendant, alleges and shows to the Court as follows:

NATURE OF THE CASE

1. Plaintiff, WEST BEND MUTUAL INSURANCE COMPANY (WEST BEND), alleges MICHAEL ANDERSON (ANDERSON), who is an employee of the United States Postal Service, was negligent in the operation of a motor vehicle during the course of his duties as a postal employee on September 8, 2019, at or about Maple Avenue and Sandhill Ridge, in Vernon, Wisconsin. As a result of MICHAEL ANDERSON'S negligence, plaintiff's insured, DONALD TOMLINSON (TOMLINSON), sustained

property damages to his vehicle in the sum of FIVE THOUSAND NINE HUNDRED SEVENTY-THREE AND 84/100 (\$5,973.84) DOLLARS. WEST BEND, which insured TOMLINSON, paid the sum of FIVE THOUSAND FOUR HUNDRED SEVENTY-THREE AND 84/100 (\$5,473.84) DOLLARS for his damages. TOMLINSON has assigned his FIVE HUNDRED AND NO/100 (\$500.00) DOLLARS deductible to WEST BEND for purposes of collection in this lawsuit. As a result of MICHAEL ANDERSON'S negligence, plaintiff's insured, DONALD TOMLINSON, sustained bodily injuries requiring medical care and treatment. WEST BEND, which insured TOMLINSON, paid the sum of TWO THOUSAND FOUR HUNDRED EIGHTY-FIVE AND 40/100 (\$2,485.40) DOLLARS for his injuries.

JURISDICTION AND VENUE

2. Jurisdiction over this claim is conferred by the Federal Tort Claims Act (FTCA) 28 U.S.C. 1346(b). The act applies to tort or property damage brought against the United States of America that occur in the United States of America. The Eastern District of Wisconsin is the proper federal venue for this action, pursuant to 28 U.S.C. 139, because the incident occurred in the Eastern District of Wisconsin.

CONDITIONS PRECEDENT

3. All of the conditions precedent to this action have been performed or otherwise occurred, including the notice of claim made upon the United States Government.

JURY DEMAND

4. Not applicable. The plaintiff is aware any trial for their tort claim is a trial to the court.

PARTIES

5. The plaintiff, WEST BEND MUTUAL INSURANCE COMPANY, is a domestic corporation, with main office located at 1900 S. 18th Avenue, West Bend, WI 53095, and is generally engaged in the insurance business.
6. The defendant, UNITED STATES, is a proper party to this lawsuit, with addresses c/o U.S. Attorney's Office, 517 East Wisconsin Avenue, Milwaukee, WI 53202 and c/o Office of the Attorney General, U.S. Department of Justice, 950 Pennsylvania Ave. NW, Washington, DC 20530-0001.

OPERATIVE FACTS

7. That on September 8, 2019, at or about 9:57 a.m., at or about Maple Ave. and Sandhill Ridge Rd., in Vernon, Wisconsin, ANDERSON, acting in his duties as an employee of the United States Postal Service, negligently operated a motor vehicle, striking the vehicle of WEST BEND'S insured, TOMLINSON.
8. As a result of ANDERSON'S negligence, TOMLINSON'S vehicle sustained property damage in the amount of FIVE THOUSAND NINE HUNDRED SEVENTY-THREE AND 81/100 (\$5,973.81) DOLLARS.

CLAIM FOR RELIEF-NEGLIGENCE

9. That on September 8, 2019, at or about 9:57 a.m., at or about Maple Ave. and Sandhill Ridge Rd., in Vernon, Wisconsin, ANDERSON, was acting in his duties as an employee of the United States Postal Service and, therefore, the UNITED STATES is a proper party defendant.
10. As a result of ANDERSON'S negligence, TOMLINSON'S vehicle sustained property damage in the amount of FIVE THOUSAND NINE HUNDRED SEVENTY-THREE AND 81/100 (\$5,973.81) DOLLARS.

11. WEST BEND paid the sum of FIVE THOUSAND FOUR HUNDRED SEVENTY-THREE AND 81/100 (\$5,473.81) DOLLARS for damages to TOMLINSON'S vehicle.
12. TOMLINSON has assigned his FIVE HUNDRED AND NO/100 (\$500.00) DOLLARS deductible to WEST BEND for purposes of collection in this lawsuit.
13. As a result of ANDERSON'S negligence, plaintiff's insured, TOMLINSON, sustained bodily injuries requiring medical care and treatment. WEST BEND, which insured TOMLINSON, paid the sum of TWO THOUSAND FOUR HUNDRED EIGHTY-FIVE AND 40/100 (\$2,485.40) DOLLARS for his injuries.

WHEREFORE, plaintiff requests relief in the amount of EIGHT THOUSAND FOUR HUNDRED FIFTY-NINE AND 21/100 (\$8,459.21) DOLLARS, together with costs, disbursements and such other relief as the court deems just and equitable.

LAW OFFICE OF ATTORNEY KEVIN ROACH
Attorneys for Plaintiff
BY:

/s/_____
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